IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.2939/07
Subey Singh Vs. State of Raj. & Ors.

4.10.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Mahendra Goyal for petitioner.
Shri B.K. Sharma, Dy. GA for State.

The petitioner has filed this writ petition with the prayer that the order / letter dated 8.3.2007 (Annexure-14) whereby it was conveyed to him that he being a award holder can be awarded land in terms of the Rajasthan Gallantry Awards (Cash Rewards and Land Grant) Rules, 1966 only in the Indira Gandhi Nahar Project region and in case he is not agreeable to accept the land in that region, he could be given cash award of sum of Rs.2 lacs.

Learned counsel for the petitioner has argued that the petitioner suffered with a permanent disability while serving during `Operation Crust' in Sikkim on 9.4.1975 and was awarded `Shourya Chakra'. Copy of the disability certificate dated 15.10.1998 has been enclosed to substantiate this argument. It is argued that on account of gun shot injury received on his right leg, the petitioner suffered the permanent disability. As per the Rules of 1966, supra, the Shourya Chakra awardees are entitled to cash award of Rs.5,000/- plus 50 bighas of unirrigated agricultural land. Although originally the Rules provided allotment of such land only in the Rajasthan Canal Project and other Project areas but subsequently the

aforesaid Rule was amended by notification dated 2.6.1979 and the proviso to Rule 4 was purposely added to say that agriculture land may also be awarded to the awardee in his own tehsil, if desired by him. The petitioner has cited the order dated 30.6.1976, allotting land in favour of one Prabhati Singh in Village Chobara, Tehsil Behror and Vikram Singh whose father was allotted 50 bighas of land in consideration of the service rendered by him to the nation in his own tehsil. The petitioner has been allotted the land of 25 bighas in District Jaisalmer by order dated 5.8.1998. The petitioner however submitted representation praying that since his right leg has been imputed, therefore, his mobility is restricted and

land should be allotted to him in his own tehsil in terms of proviso to Rule 1966, supra. Earlier also he filed the writ petition before this Court which was decided by judgment dated 6.11.2003 with a direction to the respondents to sympathetically consider and decide his representation. Pursuant to the representation submitted by the petitioner, enquiries were made. The Government enquired from the Collector about the availability of the land and the Collector in his letter dated 11.3.2004 informed that 50 bighas of unirrigated land in khasra no.1182 is available in revenue village Dabadwas, Behror which is free from any interference and encroachment. It was argued that petitioner was personally

called for hearing by the Principal Secretary, Revenue Department of the Government on 9.6.2004. Accordingly petitioner appeared and made his submissions. The petitioner thereafter has made number of representations to various functionaries of the Government including the Chief Minister. It was after this much of exercise that the impugned order dated 8.3.2007 was passed by the Deputy Legal Reimburser, Finance Department addressed to Commissioner, Colonization Department, Bikaner that either the petitioner should accept the land allotted to him in Indira Gandhi Project or cash award of Rs.2 lacs.

Learned Deputy Government Advocate opposed the writ petition and argued that while deciding the earlier

writ petition the Hon'ble Court merely directed the respondents to consider and decide the representation of the petitioner. The Government accordingly decided the representation. It was argued that the land has already been allotted to the petitioner in Indira Gandhi Canal Project Area. As per the decision taken by the Government, the petitioner could not be allotted land in his own tehsil. He has however been alternatively offered cash reward of Rs.2 lacs. It was therefore prayed that the writ petition be dismissed.

I have given my anxious consideration to rival arguments made by the learned counsel for the parties and perused the material on record.

Contention of the petitioner is

that upon availability of unirrigated land measuring 15 bighas in his own tehsil, the respondents were required to consider his case for allotment of that land in terms of proviso to Rule 4 of Rules of 1966. This fact has been specifically asserted by the petitioner in para 2 of the writ petition. Claim of the petitioner was substantiated when the District Collector in response to the query made by the Government vide letter dated 30.1.2004 confirmed the fact about the availability of unirrigated land measuring 50 bighas out of khasra no.1182 which was in total of 13.50 hectares in size. When the action has been initiated to make allotment of the land to the petitioner in terms of the Act of 1966 in recognition to the service rendered by

the petitioner to the nation and the fact that he was awarded Shourya Chakra by the Government of India, there does not appear to be any justification why that action was not taken to its logical conclusion by allotting the land to the petitioner in his own tehsil and why the respondents decided to strict to their earlier decision of allotting irrigated land to the petitioner in village and district Jaisalmer. Averments specifically made in para 2 and 5 of the writ petition with regard to availability of land in Village Dabadweas of Tehsil Behror have not only be denied by the respondents so much so that the similar instances cited where allotment of unirrigated land in tehsil Behror was itself to other Gallantry Award holders

though asserted as pleaded by petitioner in para 3 of the writ petition, has not been denied by the respondents. This Court on earlier occasion gave the liberty to the petitioner to approach the authorities again by making representation and pursuant to action initiated by them in compliance thereto, enquiry from District Collector revealed that the land was in fact available in village Dabadwas. The petitioner has asserted that the aforesaid land is still available as vacant and unencumbered and has not been encroached upon by anyone. Action of the respondents therefore in not considering the case of the petitioner for allotment of such land in spite of the specific provision contained in proviso to Rule 4, supra is nothing

but colourable exercise of power besides being discriminatory because in similar circumstances when such treatment has been accorded to identically situated gallantry award holders, the petitioner was accorded discriminatory treatment.

In the result, the writ petition is allowed, the impugned order dated 8.3.2007 is set aside and the respondents are directed to consider the case of the petitioner for allotment of the unirrigated land of khasra no.1182 provided the said land is available and has not been allotted to anyone else and in case of non availability of said land, any other unirrigated land measuring 50 bighas preferably in Tehsil Behror of District Alwar within three months from the date copy of this judgment is

produced before them.

The writ petition is accordingly allowed with the aforesaid directions.

(Mohammad Rafiq),J.

Rs/-